

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 99-3435

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Curtis J. Roberts,

Appellant,

v.

Dr. Blackwell, M.D.,

Appellee.

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\* Appeal from the United States

\* District Court for the

\* Southern District of Iowa.

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[UNPUBLISHED]

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Submitted: January 6, 2000

Filed: January 11, 2000

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Before BEAM, LOKEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

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PER CURIAM.

Curtis J. Roberts appeals the district court's<sup>1</sup> dismissal of his 42 U.S.C. § 1983 action claiming Eighth Amendment and due process violations, as well as medical malpractice, arising from his treatment at an Iowa prison. After careful review of the record, see Cooper v. Schriro, 189 F.3d 781, 783 (8th Cir. 1999) (per curiam), we conclude dismissal was proper. See Estelle v. Gamble, 429 U.S. 97, 106-07 (1976) (to state Eighth Amendment claim for denial of medical care, prisoner must allege acts or

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<sup>1</sup>The Honorable R. E. Longstaff, United States District Judge for the Southern District of Iowa.

omissions evidencing deliberate indifference to serious medical need; medical negligence is not enough to maintain § 1983 action); Cole v. Bone, 993 F.2d 1328, 1334 (8th Cir. 1993) (issue under § 1983 is whether defendant violated federal or constitutional rights, not whether he violated state statutory or administrative provision). However, we modify the dismissal of Roberts's state law claims to be without prejudice. See Franklin v. Zain, 152 F.3d 783, 784-86 (8th Cir. 1998). We otherwise affirm. See 8th Cir. R. 47A(a).

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.